

February 18, 2003

Bulletin 115

**Insurance Against Loss due to Defects or
Encumbrances on the Title to Real Property**

The Department of Insurance ("Department") has received many filings for products insuring financial institutions for losses that occur in issuing second or subsequent mortgages or home equity loans. While these policies identify various covered acts or omissions, each policy provides coverage against losses due to a defect or encumbrance on the title to real property. The Department considers these products to be title insurance.

Companies holding a certificate of authority to engage in the business of title insurance pursuant to Ind. Code § 27-7-3 or Ind. Code § 27-1-5-1, Class 2(j) are authorized to write these products in Indiana. Ind. Code § 27-1-17-4(g) and Ind. Code § 27-7-3-12 require a foreign company to provide a certificate from its home state that the company is authorized to make the kind or kinds of insurance which it proposes to make in Indiana. Property and casualty insurance companies that would like to add title authority to their certificate of authority should contact the Department's Company Records Division. Any company issuing these products without the proper authority should cease immediately.

Pursuant to Ind. Code § 27-1-22-2(a)(6) title insurance rates and policy forms, including these types of title insurance products, are not required to be filed with the Department.

INDIANA DEPARTMENT OF INSURANCE


Sally McCarty, Commissioner